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30 JAN 2008

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2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

In re Application of KIM et al :
U.S. Application No.: 10/505,328 :
PCT Application No.: PCT/KR02/02033 :
Int. Filing Date: 31 October 2002 : DECISION
Priority Date Claimed: 22 February 2002 :
Attorney Docket No.: 02730.0020.PCUS00 :
(300602004700) :
For: CONSTRUCTION OF NOVEL STRAINS... :
:

This is in response to applicant's "Petition to Withdraw Abandonment Pursuant to MPEP § 711.03(c)IA Failure to Receive Office Action" filed 22 January 2008, which is being treated under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 31 October 2002, applicant filed international application PCT/KR02/02033, which claimed priority of an earlier Korea application filed 22 February 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 28 August 2003. The thirty-month period for paying the basic national fee in the United States expired on 23 August 2004 (22 August 2004 was a Sunday).

On 23 August 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 21 June 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that a copy of the sequence listing in computer readable form is required.

On 16 November 2005, the agent of record filed a request to withdraw as attorney and a change of correspondence address.

On 25 November 2005, applicant filed a copy of the sequence listing in computer readable form.

On 21 February 2006, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916), which identified errors in the copy of the sequence listing in computer readable form filed 25 November 2005.

On 27 March 2006, applicant filed a substitute copy of the sequence listing in computer readable form.

On 26 April 2007, the DO/EO/US mailed a Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922), which identified errors in the copy of the sequence listing in computer readable form filed 27 March 2006.

On 14 November 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification to Comply mailed 26 April 2007.

On 22 January 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The Notification of Defective Response (Form PCT/DO/EO/916) mailed 21 February 2006 set a one month, non-extendable time limit for reply. Although the response to the Notification of Defective Response was timely filed (see certificate of mailing on 21 March 2006), the response contained errors¹ in the sequence listing, and thus did not constitute a proper reply to the Notification of Defective Response. Because a proper reply to the Notification of Defective Response was not furnished within the time limit set by the Notification of Defective Response, the present application became abandoned. Because the application was already abandoned, the Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) was sent in error.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

The Notification to Comply with Requirements for Patent Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/922) mailed 26 April 2007 is hereby VACATED.

¹ A copy of the sequence listing error report is attached to this decision.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 14 November 2007 is hereby VACATED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a corrected Notification of Abandonment (Form PCT/DO/EO/909) which should indicate that the application is abandoned for failure to timely file a proper reply to the Notification of Defective Response (Form PCT/DO/EO/916) mailed 21 February 2006.

Bryan Lin

Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

ATTACHMENT: copy of Sequence Listing Error Report

STIC Biotechnology Systems Branch

RAW SEQUENCE LISTING ERROR REPORT

The Biotechnology Systems Branch of the Scientific and Technical Information Center (STIC) detected errors when processing the following computer readable form:

Application Serial Number: 10/505,328A
Source: PC
Date Processed by STIC: 4/28/06

THE ATTACHED PRINTOUT EXPLAINS DETECTED ERRORS.

PLEASE FORWARD THIS INFORMATION TO THE APPLICANT BY EITHER:

- 1) INCLUDING A COPY OF THIS PRINTOUT IN YOUR NEXT COMMUNICATION TO THE APPLICANT, WITH A NOTICE TO COMPLY or,
- 2) TELEPHONING APPLICANT AND FAXING A COPY OF THIS PRINTOUT, WITH A NOTICE TO COMPLY

FOR CRF SUBMISSION AND PATENTIN SOFTWARE QUESTIONS, PLEASE CONTACT MARK SPENCER, TELEPHONE: 571-272-2510; FAX: 571-273-0221

TO REDUCE ERRORED SEQUENCE LISTINGS, PLEASE USE THE **CHECKER VERSION 4.4.0 PROGRAM**, ACCESSIBLE THROUGH THE U.S. PATENT AND TRADEMARK OFFICE WEBSITE. SEE BELOW FOR ADDRESS:

<http://www.uspto.gov/web/offices/pac/checker/chkrnote.htm>

Applicants submitting genetic sequence information electronically on diskette or CD-Rom should be aware that there is a possibility that the disk/CD-Rom may have been affected by treatment given to all incoming mail.

Please consider using alternate methods of submission for the disk/CD-Rom or replacement disk/CD-Rom.

Any reply including a sequence listing in electronic form should NOT be sent to the 20231 zip code address for the United States Patent and Trademark Office, and instead should be sent via the following to the indicated addresses:

1. EFS-Bio (<http://www.uspto.gov/ebc/efs/downloads/documents.htm>), EFS Submission User Manual - ePAVE)
2. U.S. Postal Service: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450
3. Hand Carry, Federal Express, United Parcel Service, or other delivery service (EFFECTIVE 01/14/05):
U.S. Patent and Trademark Office, Mail Stop Sequence, Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314

Revised 01/10/06



PCT

RAW SEQUENCE LISTING

PATENT APPLICATION: US/10/505,328A

DATE: 04/28/2006

TIME: 09:38:57

Input Set : A:\Sequence.txt

Output Set: N:\CRF4\04282006\J505328A.raw

2 <110> APPLICANT: Korea Advanced Institute of Science and Technology
 4 <120> TITLE OF INVENTION: CONSTRUCTION OF NOVEL STRAINS CONTAINING MINIMIZING
 5 GENOME BY Tn5-COUPLED Cre/loxP EXCISION SYSTEM
 7 <130> FILE REFERENCE: 02730.0020.PCUS00
 9 <140> CURRENT APPLICATION NUMBER: 10/505,328A
 C--> 11 <141> CURRENT FILING DATE: 2004-08-23
 11 <150> PRIOR APPLICATION NUMBER: PCT/KR02/02033
 12 <151> PRIOR FILING DATE: 2002-10-31
 14 <150> PRIOR APPLICATION NUMBER: KR 10-2002-0009647
 15 <151> PRIOR FILING DATE: 2002-02-22
 17 <160> NUMBER OF SEQ ID NOS: 13
 19 <170> SOFTWARE: KopatentIn 1.71
 21 <210> SEQ ID NO: 1
 22 <211> LENGTH: 2437
 23 <212> TYPE: DNA
 24 <213> ORGANISM: Artificial Sequence
 26 <220> FEATURE:
 27 <223> OTHER INFORMATION: chemically synthesized TnKGloxP
 30 <400> SEQUENCE: 1
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 33 gctgtcttt atacacatct caaccatcat cgatgaattc gagctcgta cccgggttga 120
 35 actgcggatc ttgcggccgc aaaaattaaa aatgaagtt tgacggtatac gaaccccaga 180
 37 gtcccgccta gaagaactcg tcaagaaggc gatagaaggc gatgcgctgc gaatcggag 240
 39 cggcgatacc gtaaaggcacg aggaagcggt cagccattc gcccacaacg tcttcagcaa 300
 41 tatcacgggt agccaaacgct atgtcctgtat agccgtccgc cacacccacg cggccacagt 360
 43 cgatgaatcc agaaaagcggt ccattttcca ccatgatatt cggcaagcag gcatcgccat 420
 45 gggtcacgac gagatcctcg ccgtcgccca tccgcgcctt gagcctggcg aacagttcgg 480
 47 ctggcgcgag cccctgatgc tcttcgtcca gatcatcctg atcgacaaga cccgcttcca 540
 49 tccgagtagc tgctcgctcg atgcgatgtt tcgcttggt gtcgaatggg caggtagccg 600
 51 gatcaagcgt atgcagccgc cgcattgtat cagccatgtat ggatactttc tcggcaggag 660
 53 caaggtgaga tgacaggaga tcctgccccg gcacttcgccc caatagcagc cagtccttc 720
 55 cccgttcagt gacaacgtcg agcacagctg cgcaaggaac gcccgtcg gccagccacg 780
 57 atagccgcgc tgcctcgctt tggagttcat tcagggcacc ggacaggtcg gtcttgacaa 840
 59 aaagaaccgg ggcgccttcg gctgacagccc ggaacacggc ggcacatcagag cagccgattg 900
 61 tctgttgtgc ccagtcatacg ccgaatagcc tctccaccca aegggccggaa gaacctgcgt 960
 63 gcaatccatc ttgttcaatc atgcgaaaacg atccctcatcc tgcgtcttgc tccactagat 1020
 65 tattgaagca ttatcaggg ttattgtctc atgagcggat acatatttga atgtatttag 1080
 67 aaaaataaac aaataggggt tccgcgcaca ttcccccggaa aagtgcacacc tgcatcgatg 1140
 69 aattgatccg aagtccatat tctcttagaaaa gtataggaac ttcaattgtt cgacaagctt 1200
 71 gatctggctt atcgaattaa atacgactca ctatagggag accggaaatttcaattttgt 1260
 73 gagctcatcc atgcattgtg taatcccacg agcaggatata aactcaagaa ggaccatgtg 1320
 75 gtcacgcctt tcgtggat ctttcgaaag ggcagattgt gtcgacaggt aatggttgc 1380
 77 tggtaaaagg acagggccat cgccaaattgg agtattttgt tgataatggt ctgctagttg 1440

(pg. 5) ↗

RAW SEQUENCE LISTING DATE: 04/28/2006
PATENT APPLICATION: US/10/505,328A **TIME:** 09:38:57

Input Set : A:\Sequence.txt
Output Set: N:\CRP4\04282006\J505328A.raw

RAW SEQUENCE LISTING DATE: 04/28/2006
 PATENT APPLICATION: US/10/505,328A TIME: 09:38:57

Input Set : A:\Sequence.txt
 Output Set: N:\CRF4\04282006\J505328A.raw

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179	<212> TYPE: DNA	
180	<213> ORGANISM: Artificial Sequence	
182	<220> FEATURE:	
183	<223> OTHER INFORMATION: chemically synthesized OE sequence	
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187	ctgtcttta tacacatct	19
190	<210> SEQ ID NO: 4	
191	<211> LENGTH: 34	
192	<212> TYPE: DNA	
193	<213> ORGANISM: Artificial Sequence	
195	<220> FEATURE:	
196	<223> OTHER INFORMATION: chemically synthesized loxP site	
199	<400> SEQUENCE: 4	
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203	<210> SEQ ID NO: 5	
204	<211> LENGTH: 996	
205	<212> TYPE: DNA	
206	<213> ORGANISM: Artificial Sequence	
208	<220> FEATURE:	
209	<223> OTHER INFORMATION: chemically synthesized KmR gene	
212	<400> SEQUENCE: 5	
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215	cgtcaagaag gcgatagaag gcgatgcgt gcgaatcgaa agcggcgata ccgtaaagca	120
217	cgaggaagcg gtcaagccat tcgcccgc aaatccgtc aatatcacgg gtagccaacg	180
219	ctatgtctcg atagcgttcc gcccacacca gcccggcaca gtcgatgaat ccagaaaagc	240
221	ggccattttc caccatgata ttcggcaagc aggcatgccc atgggtcagc acgagatcct	300
223	cgccgtcggg catccgcgc ttgagctgg cgaacagttc ggctggcg agccccgtat	360
225	gctttcgtc cagatcatcc tgatcgacaa gacccgttc catccgatcg cgtgcgtcg	420
227	cgatcgatg tttcgcttgg tggtcgaatgg cggatcaagc gtatgcagcc	480
229	ggccgatttc atcagccatg atggataactt tctccggcagg agcaaggta gatgacagga	540
231	gatectggccc cggcacttcg cccaatagca gccagtcctt tcccgcttca gtgacaacgt	600
233	cgagcacagc tgcgcaagga acgcccgtcg tggccagcca cgatagccgc gctgcgtcg	660
235	cttggagttc attcaggggca cggacaggt cggcttgac aaaaagaacc gggcgccccct	720
237	gegctgacag cccgaacacg cggcatcg agcagccgat tgcgttgttgc ccccaagtcat	780
239	agccgaatag cctctccacc caagcggccg gagaacctgc gtgcaatcca tcttggtaaa	840
241	tcatgcgaaa cgatccat cctgtcttt gatccactag attattgaag catttatcg	900
243	ggttattgtc tcatgagcgg atacatattt gaatgttattt agaaaaataaa acaaataagg	960
245	gttccgcgc aattcccccg aaaagtgcac cctgcac	996
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249	<211> LENGTH: 947	
250	<212> TYPE: DNA	
251	<213> ORGANISM: Artificial Sequence	
253	<220> FEATURE:	
254	<223> OTHER INFORMATION: chemically synthesized GFP gene	
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RAW SEQUENCE LISTING

PATENT APPLICATION: US/10/505,328A

DATE: 04/28/2006

TIME: 09:38:57

Input Set : A:\Sequence.txt

Output Set: N:\CRF4\04282006\J505328A.raw

260	ggaccatgtg	gtcacgcttt	tcgttggat	ctttcgaaag	ggcagattgt	gtcgacaggt	120
262	aatgggtgtc	tggaaaagg	acagggccat	cgccaattgg	agtattttgt	tgataatgg	180
264	ctgcttagtt	aacggatcca	tcttcaatgt	tgtggcgaat	tttgaagtta	gttttgcattc	240
266	catttttttgc	tttgcatttgc	gtgatgtata	cattgtgtga	gttatagttg	tactcgatgtt	300
268	tgtgtccgag	aatgtttcca	tcttttttaa	aatacaatacc	tttttactcg	atacgattaa	360
270	caagggtatc	accttcaaac	ttgacttcag	cacgcgttt	gtagttcccg	tcatctttga	420
272	aagatatagt	gcgttctgt	acataaccc	cgggcatggc	actcttggaa	aagtcatgcc	480
274	gtttcatatg	atccggataa	cgggaaaagc	attgaacacc	ataagagaaa	gtatgtacaa	540
276	gtgttggcca	tggAACAGGT	agttttccag	tagtgc当地	aaattttaagg	gtatgtttc	600
278	cgtatgtgc	atcacctca	ccctctccac	tgacagaaaa	tttgc当地	ttaacatcac	660
280	catctaattc	aacaagaatt	gggacaactc	cagtggaaag	ttcttctct	ttactctt	720
282	tttctaccgg	tacccgggaa	tcctcttagag	tcgc当地	ggcatgc当地	cttgc当地	780
284	tcatggtcat	agctgtttcc	tgtgtgaaat	tgttatccgc	tcacaattcc	acacaacata	840
286	cgagccggaa	gcataaaagt	taaagcctgg	ggc当地	gatgtgacca	actcacatta	900
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293	<212>	TYPE:	DNA				
294	<213>	ORGANISM:	Artificial Sequence				
296	<220>	FEATURE:					
297	<223>	OTHER INFORMATION:	chemically synthesized CmR gene				
300	<400>	SEQUENCE:	7				
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303	acagttacca	atgtttaatc	agtgggac	caataactgc	ctttaaaaaaaa	ttacgccccg	120
305	ccctgcact	catcgacta	ctgttgaat	tcataaagca	ttctgc当地	atggaaagcc	180
307	tcacagacgg	catatgaac	ctgaatcgcc	agcgc当地	gcaccc	cttgc当地	240
309	taatatttgc	ccatggtaaa	aacggggcg	aagaagtgt	ccatatttgc	cacgtttaaa	300
311	tcaaaactgg	tgaaactc	ccagggatttgc	gctgagacga	aaaacatatt	ctcaataaaac	360
313	cctttaggaa	aataggccag	gttttccac	taacacgca	catcttgc当地	atatatgtgt	420
315	agaaaactgc	ggaaatcg	gtggatttca	ctccagagcg	atgaaaacgt	ttcagg	480
317	tcatggaaaa	cggtgtaca	agggtgaaca	ctatcccata	tcaccagctc	accgttcc	540
319	attgc当地	ggaaatttccg	atgagcattc	atcaggc当地	caagaatgt	aataaaggcc	600
321	ggataaaaact	tgtgttatt	tttcttac	gtctttaaa	aggccgtaat	atccagctga	660
323	acggcttgc	tataggtaca	ttgagcaact	gactgaaatg	cctcaaaaatg	ttcttac	720
325	tgccatttgg	atatacaac	ggtgtat	ccagtgtt	tttctccat	tttagtgc当地	780
327	ttagcttctg	aaaatctca	taactcaaa	aatacgc当地	gtatgtatc	tat	840
329	tgtgtaaatgt	tggaaacctt	tacgtgc当地	tcaacgtctc	attttgc当地	aaagtggcc	900
331	caggccttcc	cggtatcaac	agggacacca	ggatttattt	attctgc当地	gtgatcttcc	960
333	gtcacaggta	tttatttccg	gcaaaagtgc当地	tcgggtgatg	ctgccaactt	actgat	1020
335	tgtatgttgc	tgttttgc当地	gtgttccat	ggcttctgtt	tctatc	agc	1069
338	<210>	SEQ ID NO:	8				
339	<211>	LENGTH:	19				
340	<212>	TYPE:	DNA				
341	<213>	ORGANISM:	Artificial Sequence				
343	<220>	FEATURE:					
344	<223>	OTHER INFORMATION:	chemically synthesized primer-pMODFP-1				
347	<400>	SEQUENCE:	8				
348	attcaggctg	cgc当地					19
351	<210>	SEQ ID NO:	9				

RAW SEQUENCE LISTING
PATENT APPLICATION: US/10/505,328A

DATE: 04/28/2006
TIME: 09:38:57

Input Set : A:\Sequence.txt
Output Set: N:\CRF4\04282006\J505328A.raw

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352 <211> LENGTH: 22
353 <212> TYPE: DNA
354 <213> ORGANISM: Artificial Sequence
356 <220> FEATURE:
357 <223> OTHER INFORMATION: chemically synthesized primer-pMODRP-1
360 <400> SEQUENCE: 9
361 tcagtggcg aggaagcgga ag
364 <210> SEQ ID NO: 10
365 <211> LENGTH: 28
366 <212> TYPE: DNA
367 <213> ORGANISM: Artificial Sequence
369 <220> FEATURE:
370 <223> OTHER INFORMATION: chemically synthesized primer-Tn5Ext
373 <400> SEQUENCE: 10
374 agcatacatt atacgaagtt atattaag
377 <210> SEQ ID NO: 11
378 <211> LENGTH: 35
379 <212> TYPE: DNA
380 <213> ORGANISM: Artificial Sequence
382 <220> FEATURE:
383 <223> OTHER INFORMATION: chemically synthesized primer-Arb1
386 <400> SEQUENCE: 11
W--> 387 ttgaggcata gacgtacgtat nnnnnnnnnn gata1  

390 <210> SEQ ID NO: 12
391 <211> LENGTH: 20
392 <212> TYPE: DNA
393 <213> ORGANISM: Artificial Sequence
395 <220> FEATURE:
396 <223> OTHER INFORMATION: chemically synthesized primer-Arb2
399 <400> SEQUENCE: 12
400 ttgaggcata gacgtacgtat
403 <210> SEQ ID NO: 13
404 <211> LENGTH: 25
405 <212> TYPE: DNA
406 <213> ORGANISM: Artificial Sequence
408 <220> FEATURE:
409 <223> OTHER INFORMATION: chemically synthesized primer-Tn5Int
412 <400> SEQUENCE: 13
413 tcgacctgca ggcattcaag cttca

```

22

28

35

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X PLS explain "N" locations

See error explanation

on page 7.

RAW SEQUENCE LISTING ERROR SUMMARY
PATENT APPLICATION: US/10/505,328A

DATE: 04/28/2006
TIME: 09:38:58

Input Set : A:\Sequence.txt
Output Set: N:\CRF4\04282006\J505328A.raw

Please Note:

Use of n and/or Xaa have been detected in the Sequence Listing. Please review the Sequence Listing to ensure that a corresponding explanation is presented in the <220> to <223> fields of each sequence which presents at least one n or Xaa.

Seq#:11; N Pos. 21,22,23,24,25,26,27,28,29,30

VARIABLE LOCATION SUMMARY
PATENT APPLICATION: US/10/505,328A

DATE: 04/28/2006
TIME: 09:38:58

Input Set : A:\Sequence.txt
Output Set: N:\CRF4\04282006\J505328A.raw

Use of n's or Xaa's (NEW RULES):

Use of n's and/or Xaa's have been detected in the Sequence Listing.

Use of <220> to <223> is MANDATORY if n's or Xaa's are present.

in <220> to <223> section, please explain location of n or Xaa, and which residue n or Xaa represents.

Seq#:11; N Pos. 21,22,23,24,25,26,27,28,29,30

= =

VERIFICATION SUMMARY

PATENT APPLICATION: US/10/505,328A

DATE: 04/28/2006

TIME: 09:38:58

Input Set : A:\Sequence.txt

Output Set: N:\CRF4\04282006\J505328A.raw

L:11 M:271 C: Current Filing Date differs, Replaced Current Filing Date
L:387 M:258 W: Mandatory Feature missing, <221> Tag not found for SEQ ID#:11
L:387 M:258 W: Mandatory Feature missing, <222> Tag not found for SEQ ID#:11
L:387 M:341 W: (46) "n" or "Xaa" used, for SEQ ID#:11 after pos.:0